

## REMARKS/ARGUMENTS

Claims 12, 23 and 32 have been amended. Claims 1-11 have been withdrawn. Therefore, Claims 12-42 remain pending in the present application.

1. In the above referenced Office Action:

- a. Claims 12-16 and 19-22 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) and further in view of Le Strat (U.S. Patent No. 6,646,995);
- b. Claims 17 and 18 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) in view of Le Strat (U.S. Patent No. 6,646,995) and further in view of Wheeler (U.S. Patent No. 7,242,932);
- c. Claims 23-25, 28-36 and 39-42 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) in view of Le Strat (U.S. Patent No. 6,646,995) and further in view of Terasawa (U.S. Pub. No. 2003/0007471);
- d. Claims 26, 27, 37 and 38 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) in view of Le Strat (U.S. Patent No. 6,646,995) in view of Terasawa (U.S. Pub. No. 2003/0007471) and further in view of Wheeler (U.S. Patent No. 7,242,932).

The rejections have been traversed, as discussed below, and as such, Applicant respectfully requests reconsideration of the allowability of Claims 12-42.

2. Claims 12-16 and 19-22 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) and further in view of Le Strat (U.S. Patent No. 6,646,995). Applicant respectfully disagrees with this rejection and the reasoning thereof.

Independent Claim 12 has been amended to recite: “measuring the communication quality level of an uplink path from the WLAN terminal to the AP, the communication quality level being based on latency of the outgoing user communications received at the AP; and revising the selected coding scheme for both the incoming user communications and the outgoing user communications from the plurality of supported coding schemes based upon only the communication quality level of the uplink path” (emphasis added).

Applicant respectfully submits that the above-recited features are not taught or suggested by the combination of Abaye, Pepin and Le Strat. In the Final Office Action, the Examiner indicated that the combination of Abaye and Pepin did not teach “measuring the communication quality level of an uplink path” and “revising the selected coding scheme ... based upon only the communication quality level” and cited Le Strat as teaching this feature.

However, as Applicant previously argued and as agreed upon in the Examiner Interview, Le Strat teaches in col. 17, lines 56-64 that the coding mode used for the downlink (i.e., for incoming user communications) is determined based on the measured transmission quality of the downlink. Le Strat does not teach that the coding mode used for the downlink (i.e., “incoming user communications”) would be determined based on the “measured communication quality level of an uplink path,” as is claimed in the present invention.

Thus, the combination of Abaye, Pepin and Le Strat does not teach each and every element of, in the detail of, Claim 12 of the present invention. Therefore, Applicant respectfully submits that independent Claim 12 is in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 103 rejection of Claim 12.

Claims 13-16 and 19-22 are dependent upon Claim 12 and introduce additional patentable subject matter. Applicant believes that the reasons that distinguish Claim 12

over the present rejection are applicable in distinguishing Claims 13-16 and 19-22 over the same rejection.

3. Claims 17 and 18 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) in view of Le Strat (U.S. Patent No. 6,646,995) and further in view of Wheeler (U.S. Patent No. 7,242,932). Applicant respectfully disagrees with this rejection and the reasoning thereof.

Claims 17 and 18 are dependent upon Claim 12 and introduce additional patentable subject matter. Applicant believes that the reasons that distinguish Claim 12 over the previous rejection are applicable in distinguishing Claims 17 and 18 over this rejection.

4. Claims 23-25, 28-36 and 39-42 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) in view of Le Strat (U.S. Patent No. 6,646,995) and further in view of Terasawa (U.S. Pub. No. 2003/0007471). Applicant respectfully disagrees with this rejection and the reasoning thereof.

Independent Claims 23 and 32 have each been similarly amended to recite: “whereby the processing unit chooses the selected coding scheme for converting both the incoming packetized communications to the incoming user communications and the outgoing user communications to the outgoing packetized communications from a plurality of supported coding schemes, each associated with a different one of a plurality of codec protocols, to be the same as a coding scheme assigned by the AP in response to the AP measuring a communication quality level of an uplink path from the WLAN terminal to the AP, the communication quality level being based on latency of the outgoing user communications received at the AP, the selected coding scheme being assigned based upon only the communication quality level of the uplink path” (emphasis added).

Applicant respectfully submits that the above-recited features are not taught by the combination of Abaye, Pepin, Le Strat and Terasawa. In the Final Office Action, the Examiner indicated that the combination of Abaye and Pepin did not teach or suggest that the “selected coding scheme” would be “assigned based upon only the communication quality level” of “an uplink path from the WLAN terminal to the AP” and cited Le Strat as teaching this feature.

However, as Applicant noted above and as agreed during the Examiner Interview, Le Strat at col. 17, lines 56-64 teaches that the coding mode used for the downlink (i.e., “incoming packetized communications”) is determined based on the measured transmission quality in the downlink, not the “uplink,” as is claimed in the present invention.

Thus, the combination of Abaye, Pepin, Le Strat and Terasawa does not teach each and every element of, in the detail of, Claims 23 and 32 of the present invention. Therefore, Applicant respectfully submits that independent Claims 23 and 32 are in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 103 rejection of Claims 23 and 32.

Claims 24-25, 28-31, 33-36 and 39-42 are dependent upon Claims 23 and 32, respectively, and introduce additional patentable subject matter. Applicant believes that the reasons that distinguish Claims 23 and 32 over the present rejection are applicable in distinguishing Claims 24-25, 28-31, 33-36 and 39-42 over the same rejection.

5. Claims 26, 27, 37 and 38 have been rejected under 35 USC § 103 (a) as being unpatentable over Abaye (U.S. Patent No. 7,260,060) in view of Pepin (U.S. Pub. No. 2004/0160979) in view of Le Strat (U.S. Patent No. 6,646,995) in view of Terasawa (U.S. Pub. No. 2003/0007471) and further in view of Wheeler (U.S. Patent No. 7,242,932). Applicant respectfully disagrees with this rejection and the reasoning thereof.

Claims 26, 27, 37 and 38 are dependent upon Claims 23 and 32, respectively, and introduce additional patentable subject matter. Applicant believes that the reasons that distinguish Claims 23 and 32 over the previous rejection are applicable in distinguishing Claims 26, 27, 37 and 38 over this rejection.

## **CONCLUSION**

For the foregoing reasons, Applicant believes that claims 12-42 are in condition for allowance and respectfully request that they be passed to allowance.

The fee for the Request for Continued Examination is being submitted herewith. No additional fees are believed to be due. In the event that additional fees are due or a credit for an overpayment is due, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Garlick Harrison & Markison Deposit Account No. 50-2126.

The Examiner is invited to contact the undersigned by telephone or email if the Examiner believes that such a communication would advance the prosecution of the present invention.

**RESPECTFULLY SUBMITTED,**

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